IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Bail Appl..No. 6698 of 2007()

(AGAINST PAMBA POLICE STATION CRIME NO.61/2007)

APPLICANT/ACCUSED:

CHANDRAN, AGED 46, S/O. KOCHUCHERUKKAN, MARUTHIMOOTTIL, THULAPPALLY P.O., NARANAMTHODU, RANNY, PERUNADU.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

B.A.No.6698 of 2007

Dated this the 15th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner was allegedly found to be in possession of 6.5 litres of arrack on 21.10.07. The police party on receipt of discreet prior information had proceeded to the scene of occurrence. The petitioner allegedly abandoned the contraband article and took to his heels. He could not be arrested. His identity was ascertained from the local witnesses. The petitioner's name and his complicity do appear in the contemporaneous seizure mahazar as also the occurrence report. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is a clear case of mistaken identity, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are satisfactory indications to conclude that the petitioner was the person who ran away from the scene of occurrence after abandoning the contraband article. There is absolutely no reason at this stage to doubt the version which finds expression in the contemporaneous seizure mahazar.

4. Having considered all the relevant inputs, I find no features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-